

REMARKS

Claims 1-14 are pending in this application. Claims 1, 3, and 14 are independent. In light of the amendments and remarks included herein, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections.

By this amendment, Applicants have amended claims 1 and 3 to more appropriately recite the present invention. It is respectfully submitted that these amendments are being made without conceding the propriety of the Examiner's rejections, but merely to timely advance prosecution of the present application.

In the outstanding Official Action, the Examiner rejected claim 14 under 35 U.S.C. §102(b) as being anticipated by *Murrah et al.* (USP 5,804,807) and rejected claims 1-13 under 35 U.S.C. §103(a) as being unpatentable over *Murrah et al.* in view of *Roach et al.* (USP 6,310,997) and further in view of *Garber et al.* (USP 6,232,870). Applicants respectfully traverse these rejections.

Claim Rejections – 35 U.S.C. §102

In their previous reply, Applicants argued that *Murrah et al.* fails to teach or suggest a tag reader for reading via radio waves commodity information written onto a wireless tag located on a sample commodity located from a checkout area; and a wireless communication receiver for transmitting commodity information to an information processing apparatus via radio waves at the same time that the commodity information is stored in the storage. The Examiner merely responds to Applicants' arguments asserting that they are directed to its intended use. Applicants respectfully disagree with the Examiner's interpretation of the claim. There is no intended use recited in claim 14. Claim 14 clearly recites "a portable terminal comprising: tag reader for reading via radio waves commodity information written onto a wireless tag located on a sample commodity remote from a checkout area." As such, in order for the Examiner to establish *prima facie* anticipation, the Examiner must apply a reference that teaches or suggests all of the claim elements, including a tag reader, as claimed. There is no intended use of the tag reader as asserted by the Examiner.

In addition, the Examiner appears to be asserting that the structure of the *Murrah et al.* device is identical to the structure of the present invention and thus, it doesn't matter where the tag is scanned, either local to, or remote from, the checkout area. Applicants respectfully disagree with the Examiner.

The disclosure of *Murrah et al.* is directed to a scan-ahead system where a roving attendant, presumably an employee of the shopping establishment, uses the portable scanning terminal to create an itemized list of all items in the customer's shopping cart just prior to checkout (col. 4, lines 19-23). At col. 4, lines 45-48, *Murrah et al.* discloses that the total of the customer's purchases are tallied on the portable terminal and the contents of the customer's record and its identifier are submitted to the central processor 30 over a wireless communication network (col. 4, lines 44-47). In addition, at col. 7, lines 63-67, *Murrah et al.* discloses that an alternative scheme may be provided utilizing radio frequency identification tags.

However, the portable terminal of *Murrah et al.* fails to disclose how the bar code reader as shown in Fig. 1 may read the radio frequency identification tags. In addition, the structure of *Murrah et al.* is not identical to the structure of the present invention as there is no teaching or suggestion of a tag reader for reading via radio waves commodity information written onto a wireless tag located on a sample commodity remote from a checkout area.

As such, as the cited reference fails to teach or suggest all of the claim elements, Applicants respectfully submit that *Murrah et al.* fails to anticipate claim 14. It is respectfully requested that the outstanding rejection be withdrawn.

Claim Rejections – *Murrah et al./Roach et al./Garber et al.*

In their previous Reply, with regard to claim 1, Applicants argued that there is no teaching or suggestion in *Murrah et al.* that is directed to lending out a portable terminal. In response to this argument, the Examiner asserted that it is well known to lend out shopping carts to customers to use during their shopping experience.

Applicants further argued that *Murrah et al.* teaches away from lending out the portable terminals for security reasons. The Examiner responds by citing to col. 5, lines 20-27 that discusses

the roving attendant. However, it appears that the Examiner has not properly considered Applicants' arguments. Applicants argued because *Murrah et al.* is concerned with security, and avoiding theft of goods, *Murrah et al.* would not lend out the portable terminals. The fact that *Murrah et al.* discloses the roving attendant using the portable terminal fails to address this argument. Applicants respectfully submit that one skilled in the art would not be motivated to modify *Murrah et al.* in lending out the portable terminals as *Murrah et al.* teaches away from such a modification. Applicants respectfully request proper consideration of the arguments set forth herein and made of record. For at least these reasons, Applicants respectfully submit that the claims are patentable over the references as cited.

In addition, by this amendment, Applicants have amended claim 1 to recite, *inter alia*, comparing at the information-processing apparatus the commodity information which has already been relayed to the information-processing apparatus, with commodity information which is sent from the portable terminal to a POS apparatus at a sales counter and is then entered into the information-processing apparatus and handing over the commodity to the customer after the commodity to be sold has been prepared in accordance with the comparison result of commodity information at the information-processing apparatus. Applicants respectfully submit that neither of the cited references, either alone or in combination, assuming these references are combinable, which Applicants do not admit, teach or suggest these claim elements. As such, Applicants respectfully submit that claim 1, as amended is patentable over the cited references.

It is respectfully submitted that claim 2 is allowable for the reasons set forth above with regard to claim 1 at least based upon its dependency on claim 1. It is further respectfully submitted that claim 3 recites, *inter alia*, "comparing the commodity information which has already been relayed to the information-processing apparatus, with commodity information which is sent from the portable terminal to the POS apparatus and is then entered into the information-processing apparatus," and thus, for the reasons set forth above with regard to claim 1, claim 3 is patentable over the references as cited. Claims 4-13 are allowable for the reasons set forth above with regard to claim 3 at least based upon their dependency on claim 3.

Conclusion

In view of the above amendment, Applicants believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinet Reg. No. 52,327 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

By

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